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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,459	08/22/2003	Jeffrey Ying	156886-0060	8497

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EXAMINER

COULTER, KENNETH R

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,459	YING, JEFFREY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kenneth R. Coulter	2141	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 40-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 40-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/22/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 40 – 75 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 15 of U.S. Patent No. 6,201,995. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following mapping below.

Claim 1 of the present Application maps to claims 1, 8, and 15 of ‘995.

Claim 40 of the present Application maps to claims 1, 8, and 15 of ‘995.

Claim 41 of the present Application maps to claims 1, 8, and 15 of ‘995.

Claim 42 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 43 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 44 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 45 of the present Application maps to claims 1 – 3 and 8 – 10 of '995.

Claim 46 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 47 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 48 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 49 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 50 of the present Application maps to claims 1, 8, and 15 of '995.

Claim 51 of the present Application maps to claims 1, 8, and 15 of '995.

Claims 52 – 75 map similarly.

3. Claims 1 and 40 – 75 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 20 of U.S. Patent No. 6,094,416. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following mapping below.

Claim 1 of the present Application maps to claims 1, 5, 8, and 20 of '416.

Claim 40 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 41 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 42 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 43 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 44 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 45 of the present Application maps to claims 1, 5, 6, 8, 17, and 20 of '416.

Claim 46 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 47 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 48 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 49 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 50 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claim 51 of the present Application maps to claims 1, 5, 6, 8, and 20 of '416.

Claims 52 – 75 map similarly.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 40 – 75 are rejected under 35 U.S.C. 102(e) as being anticipated by Rode et al. (U.S. Pat No. 6,643,689) (Process and Components for Controlling the Connections of a Transmission System).

5.1 Regarding claim 1, Rode discloses a matrix control network, comprising:

a hierarchical control network, said hierarchical control network comprising a plurality of data bases and a plurality of control network nodes arranged in a hierarchical structure, each of the data bases communicatively coupling one or more of said control network nodes (Figs. 1, 2; col. 1, lines 35 – 47; col. 3, lines 16 – 30); and

a supervisory communication, said supervisory network comprising a supervisory communication bus and a plurality of supervisory nodes communicatively coupled to said supervisory communication bus, each of said supervisory nodes configured to monitor at least one of the data buses of said hierarchical control network (Figs. 1, 2; col. 1, lines 35 – 47; col. 3, lines 16 – 30).

5.2 Per claim 40, Rode teaches the matrix control network of claim 1, wherein at least one of the control network node communicatively coupled to a given data bus is configured to operate as a master node and the other control network nodes communicatively coupled to that data bus are configured to operate as slave nodes (Figs. 1, 2; col. 1, lines 35 – 47; col. 3, lines 16 – 30).

5.3 Regarding claim 41, Rode discloses the matrix control network of claim 40, wherein each of said supervisory nodes comprises a supervisory node slave unit and a supervisory node master unit, said supervisory node slave unit connected to one of said data buses of said hierarchical control network, and said supervisory node master unit

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connected to said supervisory communication bus (Figs. 1, 2; col. 1, lines 35 – 47; col. 3, lines 16 – 30).

5.4 Per claim 42, Rode teaches the matrix control network of claim 41, wherein the master node for each data bus systematically polls the slave nodes connected to the data bus (col. 3, line 60 – col. 4, line 20).

5.5 Regarding claim 43, Rode discloses the matrix control network of claim 42, wherein the master node for each data bus polls the supervisory node slave unit of the supervisory node connected to the data bus (col. 3, line 60 – col. 4, line 20).

5.6 Per claim 44, Rode teaches the matrix control network of claim 43, wherein the supervisory node slave unit of each supervisory node refrains from transmitting over the data bus to which the supervisory node is connected unless authorized by the master node connected to the data bus (Fig. 7; col. 7, lines 34 – 48).

5.7 Regarding claim 45, Rode discloses the matrix control network of claim 1, wherein a supervisory node detecting an error or exception condition transmits an alert message over said supervisory communication bus (col. 2, lines 20 – 24).

5.8 Per claims 46 – 75, the rejection of claims 1 and 40 – 45 under 35 USC 102(e) (paragraphs 5.1 – 5.7 above) applies fully.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KENNETH R. COULTER  
PRIMARY EXAMINER



krc